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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,981	02/25/2004	Giancarlo Traversa	38741/GM/lp	8968

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MODIANO & ASSOCIATI
Via Meravigli, 16
MILANO, 20123
ITALY

EXAMINER

WU, IVES J

ART UNIT	PAPER NUMBER
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1724

MAIL DATE	DELIVERY MODE
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07/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/784,981

Applicant(s)

TRAVERSA ET AL.

Examiner

Ives Wu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1,2,6-9 and 18 is/are rejected.
- 7) ☒ Claim(s) 3-5,10-15,19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

(1). Applicants' Affidavits, Request-for-Continued Examination (RCEX), Remarks filed on 05/22/2007 have been received.

Claims 16-17 were cancelled before.

Consequently, the rejections of claims 1-15 and 18-20 in prior Office Action dated 11/30/2006 is withdrawn in view of the Affidavits filed on 05/22/2007.

Upon further consideration, a new ground of rejections for claims 1-15, 18-20 is introduced herein below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(2). **Claims 1-2, 6, 9, 18** are rejected under 35 U.S.C. 102(b) as being anticipated by Leverrier (US05877246A).

Leverrier (US05877246A) discloses moulding material composition (Title). The moulding material composition specially intend for **sanitary appliances** such as plastic material sinks, baths, wash-basins (Col. 1, line 10-12). The composition of the moulding material which will be molded and polymerized under pressure and at high temperature comprises in a known manner a polyester resin cross-linking within a **monomer liquid with a polymerizable vinyl group**, which would includes **methyl methacrylate**. This product which will crosslink and thereby give the moulded material a solid appearance. Variable types of polyesters resins may be used and, as an example the use of an unsaturated polyester resin has been selected. Other similar products may be used, particularly a vinyl ester or an **acrylic resin** (Col. 4, line 46-50) and a non-shrinkable polyethylene-type polymer soluble in the resin mixture (Col. 3, line 49-50), such as **PMMA (methyl polymethacrylate)** (Col. 5, line 4-5). An organic peroxide **catalyst** is used to trigger cross-linking of the resin by the provision of free radicals during their destruction at high temperature (Col. 3, line 51-53). Catalyst of tertiary butyl ethyl-2 perexanoate [0.03 to

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0.5%] is used (Col. 5, line 12). Chemical coating of the glass micro-beads with "SILANE" (organofunctional silane) induces a chemical bridging effect between the resin and the beads, which naturally improves the keying (Col. 2, line 25-28). The presence of **glass micro-beads** in the fillers also has a considerable advantage with a better filling of moulds and an improved compactness and uniformity of the mixture (Col. 2, line 18-22). Glass micro-beads of a given grain size facilitate the flow of the material under pressure and thereby greatly reduce the number of rejects due to porosity (Col. 6, line 16-18), the grain size of glass micro-beads would include the size distribution from 0.2 to 1.5 mm. The moulding material composition after cross-link would be **thermosetting composite material** (Col. 1, line 46-54).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

(3). **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Laverrier (US05877246A).

As to coloring fraction at a concentration from 1 to 5% with respect to the weight of the matrix in **claim 7**, in absence of showing the criticality of records, the optimization of coloring fraction to be 1 to 5 wt% in known process renders prima facie obviousness within one of ordinary skills in the art. *In re Boesch*, 617 F.2d 272,276,205 USPQ 215, 219 (CCPA 1980).

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- (4). **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Leverrier (US05877246A) in view of Abe et al (US04334933).

As to the colored glass in **dependent claim 8**, Leverrier et al **does not teach** the use of colored glass.

However, Abe et al **teach** the stable inorganic pigment by coating the fine amorphous silica on pigment particle (Col. 1, line 7-9).

The advantage of using the stable inorganic pigment is for high chemical resistance, hydrogen sulfide resistance, light resistance, weatherability, heat resistance and storage stability (Col. 1, line 9-12)

Therefore, it would have been obvious at time the invention was made to replace filler in the thermosetting composition taught by Leverrier with filler of colored glass taught by Abe in order to obtain the above-mentioned advantage.

Allowable Subject Matter

- (5). **Claim 20** is allowed.

Claims 3-5, 10-15, 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments, see Affidavits, filed 05/22/2007, with respect to the rejection(s) of claim(s) 1-16, 18-20 under 103 rejections in view of Schock (US05218013A), Harke et al (US05710204A) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Leverrier (US05877246A).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ives Wu whose telephone number is 571-272-4245. The examiner can normally be reached on 8:00 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner: Ives Wu
Art Unit: 1724
Date: July 14, 2007

DUANE SMITH
PRIMARY EXAMINER

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7-17-07